



## Committee of the Whole Report For the Meeting of January 21, 2021

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**To:** Committee of the Whole  
**Date:** January 9, 2021  
**From:** Thomas Soulliere, Director of Parks, Recreation and Facilities  
**Subject:** Proposed Updates to Parks Regulation Bylaw

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### RECOMMENDATION

That Council direct staff to prepare the following amendments to Section 16A of the *Parks Regulation Bylaw*;

- A. Prohibit sheltering within parks in areas with high-risk of flooding or other environmental hazards, and
- B. Add Central Park to the list of parks where sheltering is prohibited.

### EXECUTIVE SUMMARY

The purpose of this report is to present Council with information regarding the mitigation of impacts relating to sheltering in City parks.

For years municipal parks have been used by individuals experiencing homelessness for overnight sheltering. In the years prior to 2020, the volume of sheltering was appreciably lower than the current level. Largely in response to the impacts associated with the COVID-19 pandemic, certain parks, including Central Park, have experienced a significant increase in sheltering activity. At its peak last year, there were more than 100 tents and other temporary structures erected in Central Park, the primary green space for the North Park neighbourhood.

In September 2020, Council amended the *Parks Regulation Bylaw* (the *Bylaw*) to temporarily allow homeless persons to maintain shelters in public parks during daytime hours. Following the introduction of further regulations to address health and safety risks, the number of structures in Central Park was gradually reduced to less than 40. In response to the 24-hour park use, the City invested in portable toilets, handwashing stations, site security, as well as expanded park cleaning and waste collection programs.

Municipal parks and other public places are not designed for sheltering and are often susceptible to the seasonal impacts of extreme weather, including pooling of rainwater and tree failures. The impacts of severe rainfall events were evident in the past month where large portions of Central Park experienced flooding (as outlined in Attachment A). The City warned people sheltering in Central Park about these risks. Despite that, the effects of heavy rainfall on people sheltering and property was considerable. In response, the City collaborated with various community stakeholders to establish a new temporary sheltering site for individuals who were living in Central

Park, in a City-owned parking lot at 940 Caledonia Avenue. On January 5, Central Park was temporarily closed so that staff could assess the damage caused by the combination of extreme weather and sheltering activity in the park and to develop a remediation plan.

The City does not permit sheltering in all of its 137 parks, and conditions under which sheltering may occur are listed within the *Parks Regulation Bylaw* (Section 16A). Through this bylaw, the City has established a list of designated areas within parks as well as entire parks where overnight sheltering is prohibited. To-date, Council has adopted an incremental approach to evaluating whether a park should be available for sheltering or not, considering the risk factors of each case.

As outlined in this report, Director of Parks, Recreation and Facilities recommends two amendments to the *Parks Regulation Bylaw*, to allow the City to better manage the risks relating to the use of parks for sheltering. The rationale for the proposed changes relates to environmental hazards and the availability of infrastructure to support sheltering needs.

## **PURPOSE**

The purpose of this report is to present Council with information regarding the mitigation of impacts relating to sheltering in City parks.

## **BACKGROUND**

People have been sheltering in Victoria parks for decades, despite the fact that it was prohibited under City bylaws until 2009. In that year, the City's *Parks Regulation Bylaw* (Attachment B) was amended to allow homeless persons to shelter overnight in municipal parks. This was done because of a court decision (*Victoria (City) v. Adams*, 2008), which struck down the *Bylaw's* absolute prohibition on erection of shelters as contrary to section 7 of the *Canadian Charter of Rights and Freedoms*.

The responsibility for addressing the root causes of street homelessness does not lie with municipalities, but rather at the provincial and federal levels of government. However, it is municipal parks and other public places that are most immediately impacted when there is inadequate housing or indoor shelter space available. Even though local parks are not designed to accommodate sheltering, they are the most easily accessible locations for sheltering in urban areas. As a result, the City is forced to mitigate the health and safety risks of all park users and impacts to park amenities that are associated with sheltering by people experiencing homelessness.

Central Park, on the northern edge of downtown in the North Park neighbourhood, is a highly utilized urban greenspace serving a wide range of community needs. The park is comprised of various sport and recreation facilities, including sport courts, a playground, fitness area, playing fields and picnic areas under an extensive tree canopy. The Crystal Pool and Fitness Centre is also located within the park, which is bordered on three sides by residential buildings.

## **ISSUES & ANALYSIS**

As outlined in this report, the Director of Parks, Recreation and Facilities recommends two amendments to the *Parks Regulation Bylaw*, based on factors relating to environmental conditions and infrastructure to support sheltering needs. Although there may be other important considerations to be factored into assessments about where sheltering is accommodated, the items below are the most relevant and urgent given recent experiences.

## *Environmental Conditions*

According to the *Climate Projections for the Capital Region* report (CRD 2017), extreme precipitation events are expected to become more frequent and intense as the climate changes over the coming decades, particularly in fall, winter, and spring. Fall rainfall is projected to increase 11% and the wettest day of the year will see an average of 20% more rain by the 2050s. The City of Victoria's *Hazard, Risk, and Vulnerability Analysis Report* (2017) identifies that flooding will increase in frequency and severity into the future. Further, the *Climate Change Vulnerability and Risk Assessment* completed in 2019, identified the following impacts:

- Heavy rainstorms leading to overland flooding either from pooling in low lying areas or rainfall exceeding the capacity of the drainage system (Medium risk)
- More frequent and intense storms negatively impacting City assets and services (Medium risk)

As observed this winter, there are areas within parks where sheltering is not prohibited that are at risk of environmental hazards such as tree failures, contact with utility lines, or flooding, which may cause serious harm. For example, staff have observed extensive pooling water in some areas of Beacon Hill Park, Victoria West Park, and Central Park. The challenges associated with effectively managing the drainage of heavy rainwater are complex, often requiring significant intervention and cost. Over time the City may invest in various methods of addressing this issue and the potential use(s) of these public areas would be a primary consideration in the investigation of options.

The composition of Central Park includes both hardscape (sport courts, pathways, and play areas), as well as softscape (primarily grassy spaces for both passive use and organized activities). In accordance with the *Parks Regulation Bylaw*, sheltering in the park is limited to softscape areas, the majority of which lies in the middle portion of the park, shown in Attachment A. This area is also where flooding may occur during periods of heavy rainfall. As illustrated in the attached map, there are very few other locations that are on higher ground available for sheltering in the park. If the middle area is designated as a prohibited area for sheltering, as recommended in this report, and if the current temporary measures relating to spacing between tents and park amenities remain in place, the result would be very limited capacity for this activity.

## *Support Infrastructure and Services*

Another consideration is the infrastructure required to support individuals sheltering in public spaces, to meet basic health and hygiene needs. The City maintains public washrooms throughout the municipality, including 18 within parks. Of the 12 parks where sheltering typically occurs, only Central Park lacks a permanent public washroom available to park users. In response to the continuous sheltering activity during the current pandemic, the City made significant investments in this park, adding temporary facilities, including four portable toilets, a handwashing station, and expanding the park cleaning and waste collection program. The monthly cost for these services is approximately \$22,000. Based on recent experience, the estimated capital cost to construct a new public washroom would be approximately \$400,000.

If sheltering were to continue to be allowed in Central Park, with either the current or more limited capacity, City investments in temporary infrastructure and services would need to remain.

## OPTIONS & IMPACTS

**Option 1 (Recommended) - That Council direct staff to prepare the following amendments to Section 16A of the *Parks Regulation Bylaw*;**

- A. Prohibit sheltering within parks in areas with high-risk of flooding or other environmental hazards.**
- B. Add Central Park to the list of parks where sheltering is prohibited**

Prohibition of sheltering in areas within parks which are susceptible to flood risk or other hazards relating to the physical environment (i.e. potential tree failure, contact with utilities, etc.), will help to mitigate the risk of injury or property damage. While primarily intended to protect persons sheltering in parks, it would also reduce impacts on the parks themselves. Recent experience relying on verbal communication with individuals sheltering in parks about environmental concerns, such as flood risks and tree hazards, has proven unsuccessful. Amending the *Bylaw* to formally prohibit sheltering in these areas would provide the City with the ability to address such issues in a timely manner. Areas covered by this prohibition would be identified on a basis of technical review and signage would be erected to clearly identify such areas.

The Director of Parks, Recreation, and Facilities also recommends that Central Park be added to the list of parks where sheltering is prohibited. The park is currently closed, and the remediation investment will be informed by whether this activity will be permissible or not upon re-opening.

The City has adopted a “de-centralized” approach to managing the risks associated with homelessness in parks. Prohibiting sheltering in Central Park will mitigate health and safety hazards and is not expected to substantially affect the overall capacity of possible shelter locations elsewhere in the park inventory.

It is recommended that the proposed bylaw amendments take effect upon adoption.

### **Option 2 – Make no changes to the *Bylaw*.**

The City does not have to amend the *Bylaw* as recommended. However, unless the *Bylaw* is amendment, when Central Park re-opens, it is likely that some persons experiencing homelessness will return to shelter in that park. This is undesirable because:

1. The softscape areas of Central Park are susceptible to flooding during significant rainfall events, as demonstrated last month, exposing persons sheltering there to significant health risk and to loss or damage of property;
2. There is no appropriate permanent infrastructure to address the basis health and hygiene needs of persons sheltering in Central Park;
3. People sheltering in other parks in areas that are subject to environmental hazards, such as flooding, are also at increased risks;
4. Flooding combined with sheltering activity causes significant damage to the parks, requiring costly remediation work before a park area can be returned to its intended use.

For these reasons, this option is not recommended.

### *Accessibility Impact Statement*

Although there are no direct impacts on accessibility, it has to be acknowledged that sheltering activity in park areas susceptible to flooding and other severe environmental risks can cause significant damage to park infrastructure. Such damage, if not properly remediated, would disproportionately affect persons with mobility challenges by restricting their ability to access certain park areas even long after the environmental event or sheltering ends. Furthermore, resources allocated to remediate damaged areas impacts delivery of other projects that are proactively aimed at improving accessibility in our parks.

### *Impacts to Financial Plan*

The operating costs associated with the use of Central Park for sheltering has been factored into the draft 2021 Financial Plan. If sheltering is prohibited in Central Park, but remains available at 940 Caledonia Avenue, there would not be an impact on the Financial Plan. Pending further details on the remediation plan for Central Park, staff will advise Council if any investments that may be required which cannot be addressed within the approved budget.

Unless the Bylaw is amended as recommended, it is likely that sheltering will continue to occur in areas susceptible to severe environmental risks, such as flooding. That is likely to result in repeated damage to the park infrastructure beyond what would normally be expected due to severe weather events and will require further expense to remediate. Thus, while it is impossible to accurately predict at this point the full magnitude of the increased costs, unless the recommended amendments are implemented, future Financial Plans will need to accommodate additional costs.

## **CONCLUSIONS**

The City's continued effort and investment of time and resources in mitigating the impacts of homelessness are substantial. One of the key tools available for risk management in parks is the Parks Regulation Bylaw. The Director of Parks, Recreation and Facilities recommends Council adopt the amendments proposed above to further improve the City's ability to provide safe, healthy and quality parks for all citizens.

Respectfully submitted,

Thomas Soulliere  
Director

**Report accepted and recommended by the City Manager.**

### **List of Attachments**

Attachment A – Central Park Sheltering Map with Areas of Flood Risk  
Attachment B – Parks Regulation Bylaw



Central Park Sheltering Map with Areas of Flood Risk

